

SERVICE DATE – LATE RELEASE JULY 21, 2006

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-560 (Sub-No. 1X)

ABERDEEN & ROCKFISH RAILROAD COMPANY D/B/A DUNN-ERWIN RAILWAY—  
ABANDONMENT AND DISCONTINUANCE EXEMPTION—IN HARNETT COUNTY, NC

Decided: July 21, 2006

By decision and notice of interim trail use or abandonment (NITU) served on July 2, 1999, Aberdeen & Rockfish Railroad Company d/b/a Dunn-Erwin Railway (DER) was granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 for DER to abandon a 5.488-mile line of railroad that it owns and discontinue service over a line of railroad that it leased from CSX Transportation, Inc., in Harnett County, NC.<sup>1</sup> The line DER sought to abandon extended from milepost SDS 53.00 near Erwin to milepost SDS 56.66 at Dunn, and from milepost SDE 0.00 near Erwin to milepost SDE 2.02 at Erwin, in Harnett County (“the line”). The NITU also authorized the Sandhills Area Land Trust (SALT) to negotiate an interim trail use/rail banking agreement with DER for the line to be abandoned.

Subsequently, by decision served on November 29, 1999, the proceeding was reopened to substitute North Carolina Rails-Trails, Inc. (NCRT), as the trail sponsor. By decision served on December 16, 1999, the NITU negotiating period was extended until April 27, 2000. NCRT reports that DER and NCRT consummated a trail use/rail banking agreement on April 19, 2000.

On June 27, 2006, NCRT and Harnett County, NC (the County), jointly filed a request, pursuant to 49 CFR 1152.29(f), for the substitution of the County as the interim trail user. The County has submitted the required statement of willingness to assume financial responsibility for any period of interim trail use and has indicated the date of transfer of responsibility for the right-of-way, on June 20, 2006. Although the parties did not submit a copy of the extant NITU, their submission substantially meets the requirements of 49 CFR 1152.29(f). Accordingly, the request will be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

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<sup>1</sup> This decision concerns only the line DER sought to abandon.

It is ordered:

1. This proceeding is reopened.
2. The NITU served on July 2, 1999, is vacated.
3. A replacement NITU applicable to Harnett County as interim trail user is issued, effective on the service date of this decision and notice.
4. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligations for the right-of-way.
6. If the new trail user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
7. This decision and notice is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary